

MONTANA PUBLIC DEFENDER COMMISSION

CONFERENCE CALL

Public Location: Helena Regional Office
139 N. Last Chance Gulch, Helena MT 59601

August 15, 2016

DRAFT MINUTES

Commissioners Present

Richard E. "Fritz" Gillespie, (Chair), Helena; Margaret Novak, Chester; Ann Sherwood, Pablo; Bonnie Olson, Marion; Roy Brown, Billings; Maylinn Smith, Missoula; Terry Jessee, Billings

Commissioners Absent

Brian Gallik, Bozeman; Larry Mansch, Missoula; Mike Metzger, Billings; Mark Parker, Billings

Staff Members Present

Chad Wright, Chief Appellate Defender; Kristina Neal, Conflict Coordinator; Wendy Johnson, Contract Manager; Peter Ohman, Training Coordinator; Carleen Green, Accounting Supervisor; Cathy Doyle, Administrative Assistant

Interested Parties

Malissa Williams, Office of Budget and Program Planning (OBPP); Jim Taylor, Legal Director, ACLU Montana

1. Call to Order and Roll Call

Chairman Fritz Gillespie called the meeting of the Public Defender Commission to order at 10:05 a.m. The roll was called and a quorum was established.

2. Approve Minutes of June 20, 2016 Meeting (Action Item)

Commissioner Olson moved to approve the minutes of the June 20, 2016 meeting as drafted. Commissioner Brown seconded and the motion carried.

3. Review Strategic Plan

Strategic Planning Committee Chair Bonnie Olson discussed the development of the draft strategic plan. Following the last committee meeting, she and the department heads, including incoming Chief Administrator Scott Cruse, made some formatting changes, finalized the draft plan, and distributed it to the full Commission. This document, when approved by the Commission, will be submitted to OBPP as the agency goals and objectives for the next biennium. It will also be submitted to the Task Force on Public Defender Operations.

Commissioner Olson sees this as a document that will be in a state of flux. She anticipates ongoing review with staff and the Commission's various committees, with changes presented to the full Commission on a regular basis. She acknowledged that based on comments from some stakeholders, this plan may not contain sufficient details to meet everyone's ideals; however, Commissioner Olson believes that we need to be realistic about what can be accomplished right now, with the goal of refining the plan in the future.

Commissioner Sherwood thanked the committee for their work; she agrees that the plan should be continuously reviewed and updated. She asked that Mr. Cruse review ACLU Legal Director Jim Taylor's comments and address the changes he suggested to the plan. Commissioner Olson replied that Mr. Taylor's comments had already been reviewed and discussed by Mr. Cruse and other staff. Some of Mr. Taylor's comments were incorporated into the final draft, but many were outside of the agency's current abilities. Commissioner Olson believes strongly that each item must be achievable; it is her hope that eventually Mr. Taylor's suggestions will be realistic.

Commissioner Olson gave kudos to the staff for their hard work with the committee on this plan and said staff are very invested in it. Chairman Gillespie concurred; he also commended Commissioner Olson for a wonderful job leading the committee, and appreciates the effort of the entire committee.

Chairman Gillespie invited public comment on the draft strategic plan. Mr. Taylor reiterated some of his previous written comments that the plan isn't specific enough. He doesn't think it will be well-received by the Task Force.

Commissioner Smith said that if the idea is to continue working on the plan, that should be articulated. She and Commissioner Jessee share Mr. Taylor's concern about specifics. Commissioner Smith moved that the strategic plan be reviewed by the Commission every 90 days for improvements and updates in regards to performance measurements and refining goals. Commissioner Brown seconded. Commissioner Sherwood asked for clarification—the purpose is to refine goals, not to determine whether goals have been met? Correct.

Commissioner Olson agreed that a review at each quarterly meeting would allow for continuous expansions of the plan, as well as the ability to monitor progress on data improvements and other performance measurements. She asked for one or two additional members for her committee and Chairman Gillespie will follow up with the membership.

Commissioner Olson asked that a statement reflecting the motion be added to the plan itself. She will provide the language. Commissioners Smith and Sherwood agreed and Commissioner Smith's motion carried.

Commissioner Jessee moved to approve the strategic plan with the addition of Commissioner Smith's language. Commissioner Brown seconded and the motion carried.

4. Draft FY 16 Financial and Operating Report and FY 17 Projection

Accounting Supervisor Carleen Green said that both FY 15 and 16 financial results are still in draft until the audit is complete in late August. Ms. Green went through the draft FY 16 report. Funding for FY 16 (page 3) includes personal services contingency, and a \$600,000 transfer from FY 17 for Program 3. Ms. Green noted that new cases were up approximately 8% overall in FY 16 (page 4). About 36% of the district court cases were DN (dependent neglect) cases—765 of 2,087 cases.

Appellate caseloads and expenditures are the last page of the report. Chairman Gillespie asked how the discretionary funds the Commission provided for additional appellate FTE have impacted caseloads and the number of extensions requested. Chief Wright said that it helped level them out and allowed him to limit the contract service expenditures, using only 75% of the budgeted amount for the year. The number of extensions requested has not been reduced significantly.

Commissioner Brown asked what percent of the 10% increase in total expenditures was due to DN cases. Ms. Green replied that DNs were up about 20%, but she is still working on the detailed data. She expects

to have it in late October or early November and will send it to the Commission as soon as it is available. She will also report DN data for all three programs for the FY 16 Governor's Report, even though only Programs 1 and 3 are required reporting. Commissioner Brown is concerned about how the legislature will extrapolate these increases in spending. Chairman Gillespie said that concern is shared by the entire Commission, and anything that will better explain the agency should be included in the Governor's Report. He will work with staff to make changes to the Report for the Commission's review, including breaking out costs by program, per Commissioner Novak's suggestion.

Ms. Green gave an update regarding the projection for FY 17. She is still anticipating a shortfall in the \$3.2 to 3.5 million range. The final date to file a request for supplemental funding is October 14, but OBPP should be notified as soon as possible.

Commissioner Olson asked if there would be discussion about applying the remaining discretionary funds to the shortfall. Chairman Gillespie said that will be an action item in October; there are still other proposals on the table. He believes that not having spent the entire amount by now shows that they have been cautious and prudent in how the money is used. Commissioner Olson asked to go on record as being in favor of using the funds to mitigate the shortfall, and Commissioner Brown concurred.

5. Public Comment

Mr. Taylor asked why expenses are up 10% if case counts are only up 8%. He suggested that OPD be prepared to discuss funding issues with the Task Force, and to ask them for input regarding use of the remaining discretionary funds by presenting various alternatives.

6. Old Business/New Business

A. Adopt Strategic Plan (Action Item)

Action was previously taken on this item.

B. Schedule Next Meeting

Commissioner Jessee asked if quarterly Commission meetings could be scheduled in conjunction with the quarterly staff reports. Chairman Gillespie said the goal is to have quarterly meetings shortly after the staff reports are published, although there may still be situations where a conference call meeting will need to be scheduled between those regular quarterly meetings. There was general consensus with that plan.

Chairman Gillespie invited members to attend the final Task Force meeting on September 12.

7. Adjourn

Commissioner Brown moved to adjourn. Commissioner Novak seconded and the motion carried. The meeting adjourned at 11:10 a.m.